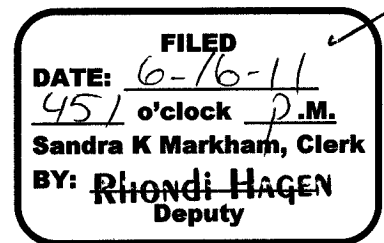


w/o

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI



DIVISION PRO TEM B

SANDRA K MARKHAM, CLERK

HON. WARREN R. DARROW

BY: R. Hagen/T. Brogdon, Deputy Clerks

CASE NO. V1300CR201080049

DATE: June 16, 2011

TITLE:
STATE OF ARIZONA,

COUNSEL:
Yavapai County Attorney
By Sheila Polk
Bill Hughes
(Via OnBase)
(For Plaintiff)

(Plaintiff)

v.

JAMES ARTHUR RAY,
(Defendant)

Thomas K. Kelly
(Via Electronic Mail)
(For Defendant)
and
Luis Li/Brad Brian/Truc Do/Miriam Seifter
MUNGER TOLLES & OLSON LLP
(Via Electronic Mail)
(For Defendant *Pro Hac Vice*)

HEARING ON:
TRIAL – DAY 52

NATURE OF PROCEEDINGS

COURT REPORTER
Mina Hunt

START TIME: 9:20 a.m.

APPEARANCES:

Sheila Polk, Counsel for State
Bill Hughes, Co-Counsel for State
Detective Ross Diskin, Case Agent
James Arthur Ray, Defendant
Tom Kelly, Counsel for Defendant
Luis Li, *Pro Hac Vice* Counsel for Defendant
Truc Do, *Pro Hac Vice* Counsel for Defendant
Miriam Seifter, *Pro Hac Vice* Counsel for Defendant

The Jury is not present.

The Court and Counsel discuss an inappropriate “knowingly” instruction given to the Jury. The Court will provide a revised instruction to Counsel for review.

Counsel for Defendant provides the Court with a written suggestion regarding the shifting of burden. Discussion ensues. The Court **finds** the burden of proof instruction is appropriate. Counsel for Defendant states for the record statements made during State’s closing argument that shift the burden. Argument ensues.

The Court and Counsel discuss scheduling.

~~~Recess~~~

At 10:09 a.m. the trial resumes with all previously appearing parties present. The Jury is not present.

The Court and Counsel discuss revising the final jury instructions and the mechanics thereof. The Court advises an Amended page 8 of the Final Jury Instructions will be given and filed.

Court advises of a juror issue.

~~~Recess~~~

At 10:17 a.m. the trial resumes with all previously appearing parties and the Jury present.

The Court gives the Jury a revised final jury instruction, amended page 8.

Counsel for State presents closing argument.

The Jury is reminded of the admonition and excused for a recess.

~~~Recess~~~

At 11:40 a.m. the trial resumes with all previously appearing parties and the Jury present.

Counsel for Defendant presents closing argument.

The Jury is admonished, excused for the noon recess and leaves the courtroom.

The Court directs Defense Counsel to review Amended Page 8 of the Final Jury Instructions.

Counsel for State addresses the Court regarding statements made in Defense's closing argument and moves the Court for a limiting instruction. Argument ensues. The Court finds it is not appropriate to put the Court behind a finding it may have made outside the courtroom and imply that the Court had a feeling of disfavor. The Court will consider a proposed limiting instruction.

~~~Noon Recess~~~

At 1:46 p.m. Court reconvenes, all previously appearing parties are present. The Jury is not present.

Court and Counsel discuss special instruction to the Jury as provided by the Court. Counsel for Defendant requests the final sentence be stricken. Counsel argue their positions. State advises this is an appropriate instruction and requests the Court give this instruction.

Counsel for Plaintiff objects to Counsel for Defendant stating defendant is on Trial for his life.

~~~Recess~~~

At 2:00 p.m. Court reconvenes, all previously appearing parties and the Jury are present.

The Court gives a special instruction to the Jury as stated on the record.

Counsel for Defendant resumes closing argument.

The Jury is reminded of the admonition and excused for a recess.

~~~Recess~~~

At 3:20 p.m. Court reconvenes, all previously appearing parties and the Jury are present.

Counsel for Defendant resumes closing argument.

Court and Counsel conduct sidebar discussion outside of the presence of the Jury on the record.

The Jury is reminded of the admonition, excused for the evening recess and exits the Courtroom.

Court directs Counsel to verify with the Clerk that all of their proposed jury instructions have been submitted for filing.

The Court addresses ex parte communications.

Court and Counsel discuss remaining time for closing arguments.

The Court stands adjourned for the day.

END TIME: 4:51 p.m.

cc: Gallagher & Kennedy, P.C., Counsel for Shore Family (e)
Murphy, Schmitt, Hathaway & Wilson, PLLC, Co-Counsel for Brown Family (e)
Stone & Magnanini, Co-Counsel Brown Family (e)
Aspey, Watkins & Diesel, PLLC, Counsel for Neuman Family (e)
Steptoe & Johnson, Counsel for KPNX Broadcasting Company, TruTV and In Session (e)
Perkins, Coie, Brown & Bain, Counsel KTVK-TV (e)
Division PTB (e)
Victim Services (e)
Court Administration
Customer Service Supervisor, Camp Verde Superior Court Building